does come within the Sherman Act. *Addyston Pipe & Steel Co. v. U. S.*, 175 U. S. 211; *Swift & Co. v. U. S.*, 196 U. S. 375. Later cases held that every combination in restraint of interstate trade comes within the Anti-Trust Act of July 2, 1890. *U. S. v. Trans-Missouri Freight Association*, 166 U. S. 290; *Northern Securities Co. v. U. S.*, 193 U. S. 197. But this doctrine has been modified by the "rule of reason." *Standard Oil Co. of N. J. v. U. S.*, 221 U. S. 1. Harlan, J., *dissenting; U. S. v. American Tobacco Co.*, 221 U. S. 106. Harlan, J., *dissenting; U. S. v. International Harvester Co.*, 214 Fed. 987. Sanborn, J., *dissenting*. In the Standard Oil case the court said that the legislature "not specifying but indubitably contemplating and requiring a standard, it follows that the standard of reason . . . was intended to be the measure used for the purpose of determining whether in a given case a particular act had or had not brought about the wrong against which the statute provided." The statute covers combinations of labor as well as combinations of capital. *Gompers v. Buck Stove & Range Co.*, 221 U. S. 418; *Montague v. Lowry*, 193 U. S. 38; *Irving v. Neal*, 209 Fed. 471. The circulation by a combination of such information among possible customers which had and was intended to have the natural effect of causing such customers to withhold patronage from the concerns listed, was held to come within the Sherman law. *Eastern States Lumber Co. v. U. S.*, 234 U. S. 600. The opinion has been advanced that the Clayton Bill passed by the 63d Congress, Oct. 15, 1914, has taken labor organizations out of the operation of the Sherman act, but a careful review of the report of the committee shows that that bill merely meant to prevent the construction that associations for increasing wages and bettering terms of employment, where that employment is in interstate commerce, be considered *per se* illegal restraints of trade. The language of the act is that nothing in the anti-trust laws shall be construed to forbid the members of labor organizations from "lawfully carrying out the legitimate objects thereof." This clearly still leaves to the courts the application of a standard, and does not effect the decision of the principal case where the methods were not lawful, and the object was not legitimate.

NEGLIGENCE—CONTRIBUTORY—BURDEN OF PROOF—CARNEY V. BOSTON ELEVATED RY., 107 N. E. (MASS.) 411.—*Held*, the burden is upon the plaintiff, who is engaged in a dangerous occupation, to prove the absence of contributory negligence, in an action against his employer for injuries sustained in the course of that employment.

The doctrine of this case is followed in eleven of the states, while twenty-three states and the Supreme Court of the United States hold the contrary view; namely, that contributory negligence is a matter of defense to be set up and proved by the defendant. See Shearman & Redfield on Negligence (4th Ed.), p. 180. The elements of the plaintiff's position in the principal case seem to be closely analogous to those of the defendants' in cases where the doctrine of *res ipsa loquitur* is applied; where the thing is shown to be under the control of the defendant (plaintiff in this case) or his servants, and the accident is such as in the ordinary course of things does not happen if proper care be

used, it affords reasonable evidence, in the absence of explanation by the defendant (plaintiff here) that the accident arose from lack of proper care. *Muskogee Electric Traction Co. v. McIntire,* 37 Okla. 684; *McNulty v. Ludwig & Co.,* 153 App. Div. 206; *The Joseph B. Thomas,* 81 Fed. 578. The application of the doctrine of *res ipsa loquitur* does not shift the burden of proof. In fact, it does not even raise a presumption—that is, evidence sufficient to invoke this principle *may* not be sufficient to justify a directed verdict, in absence of rebuttal by defendant, but it must be presented to the jury and is sufficient to support an inference by the jury that the defendant was negligent. 24 Yale Law Journal 255 (Jan. 1915 and cases cited. A minority of jurisdictions (illustrated by the principal case), as shown above, go further as to contributory negligence and say that not only is a presumption raised but the burden of proof is shifted. The majority holding is contra.

PRINCIPAL AND AGENT—SALE OF PRINCIPAL'S PROPERTY BY AGENT TO HIMSELF.—HUTTON ET AL. V. SHERRARD ET AL., 150 N. W. (MICH.) 135.—*Held,* where agents have authority to sell land for a principal retaining for their compensation that part of the purchase price received over and above a minimum price specified, such agents may make a valid sale to themselves without previous consent or ratification by the principal.

It is a general rule of equity of universal application that parties in a position of trust with respect to a thing are not allowed to purchase that thing for themselves. *Grubbs v. McGlawn,* 39 Ga. 676; *Lamar's Ex'rs. v. Hale,* 79 Va. 158. This rule applies to agents whose relation to their principals precludes them from obtaining any advantage over their principals in any transaction had by virtue of the agency. *Calmon v. Saraille,* 142 Cal. 638; *Fairman v. Bavin,* 29 Ill. 75. An agent is bound to exercise his agency in the mode in which he knew his principal intended it to be carried out. *Hofflin v. Moss,* 67 Fed. 440. The reason for the general rule, as applied to agency, is the protection of the principal's interest from possible subordination to the interest of the agent. *Porter v. Woodruff,* 36 N. J. Eq. 174; *Rochford Watch Co. v. Manifold,* 36 Nebr. 801. Many cases cite the rule without exceptions, but a majority of jurisdictions hold that a purchase by the agent is binding if made with the previous consent or subsequent ratification of the principal, the principal having full knowledge of all the facts at the agent's command. *Burke v. Bours,* 98 Cal. 171; *Rochester v. Levering,* 104 Ind. 562. If such sale is made without the previous consent of the principal it is voidable at the option of the principal even in the absence of fraud. *Rockford Watch Co. v. Manifold,* supra; *Bain v. Brown,* 56 N. Y. 285. Although the agent has a power of attorney to convey, a conveyance to himself would not give him title as against the principal. *Cleveland Ins. Co. v. Reed,* 1 Biss. 180. There seems to be only three adjudicated cases precisely on all fours with the principal case. *Synnott v. Shaughnessy,* 2 Idaho 122, cited by the court, is in accord, the majority opinion holding that the contract of agency, which is like that in the principal case, is a verbal option.